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ATTITUDE OF LABOR TOWARDS GOVERNMENT REGULATION OF INDUSTRY¹

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In his paper upon The Causes of the Present Business Situation, Mr. Isidor Straus stated that if fifty business men were to go separately before some just judge, and each give his version or judgment as to the cause of the present business situation, it would be exceedingly difficult, if not impossible, for the judge to decide intelligently the real cause. I am in entire accord with Mr. Straus, but I want to draw just one inference from that statement, and that is, that I believe the fifty business men and all others, including this splendid audience, will agree that, whoever is to blame for the present industrial and financial crisis and stagnation, it is not due to the fault of the working people of this country.

We all agree that this is one of the most fertile countries on the face of the globe. Nature is kind to us. Our natural situation is splendid. With eighty-five millions of souls in our country, with our enterprise, ingenuity, industry, and with our men working and producing the wealth of our nation, bent upon producing more wealth, giving the very best that is in them, the country awoke one fine morning last October to find that the industries were checked and many of them stopped, and that many men were thrown upon the streets without the opportunity to continue to produce wealth, so necessary to the welfare of themselves and all the people. It is a lamentable criticism upon the acumen of our princes of finance and of our captains of industry.

Of one thing I am sure no one can justly accuse the men of labor, and that is that they are pessimistic. Well, I should perhaps make a distinction between the men of labor who have not succeeded in arriving at the conclusion that their best interests are protected and promoted by association with their fellow-workmen, and those ready to help each other to bear each other's burdens, and willing to assist and receive the mutual benefits and advantages that come from associated effort. Speaking for them, the

¹An address delivered at the Annual Meeting of the Academy, April 10, 1908.

organized, the associated workmen, I am sure that they have not lost faith. They are optimistic. They have faith in themselves and in each other. They have faith in all the people of this country. They have faith in the institutions of our country, and they are determined to see that the principles and purposes underlying this republic shall be perpetuated for time without end.

It is one of my duties to endeavor to ascertain the state of employment, or, rather, the extent of unemployment. From the most accurate data I have been able to collect and collate, I find that in January, 1907, among the associated, the organized, workmen, there were about three per cent who were unemployed. In January, 1908, there were eight per cent unemployed. In February, 1907, there were about two per cent unemployed; in February, 1908, nine per cent, and I should say that, in my judgment, this is rather understated.

No matter how much people may differ as to the organizations of the working people, I think it is generally admitted that the most skilled, the most intelligent of the working people, are in the labor unions of our country, and with the labor bureaus that prevail among them, there is a larger percentage of workmen in the organizations of labor who are employed, than among those who are not so associated.

I make this statement to correct the exaggerated statements of both sides. I have seen it variously estimated that there are five millions workmen unemployed, and on the other hand I have heard it asserted that there are not half a million. I am sure that the figures which I have presented to you are as nearly accurate as are obtainable from any source.

I desire to speak of another feature of this general discussion, the government regulation or control of corporations, associations and combinations. At the outset let me say, as one entitled to speak in a measure for workmen, and having their mandate, that we are not in favor of that species of governmental action that shall deny the right to the business man of our country to conduct modern business within the law. We do not believe it is right, just or wise that the assumption shall be set up without good proof that the business man is conducting his business unlawfully, and this I think will suffice for me on this phase of the subject, for I take it that the business men have sufficient men and brains to

present their own cause. I shall speak particularly for the cause of the men and women who toil, and who have too few to speak for them.

The Sherman anti-trust law assumed that all combinations, and that all persons who associated themselves for the purpose of advancing their own interests, and who might thereby in a measure restrain trade, were guilty of an injurious restraint of trade. Whether that restraint was beneficial or not, whether or not it was advantageous and performing a great public service, it was illegal, was unlawful and punishable by fine and imprisonment.

I have already said that it is not necessary that I shall present the viewpoint of the business man, but I want to present to your consideration this fact. Is there any man or woman here this afternoon, who, in the year 1888 or 1890, dreamed, suspected or imagined, when that legislation to regulate trusts was under consideration, that the organizations of men and women who work were included under its provisions? Having lived at that period, and having had some close, intimate relations with the men who were responsible for that legislation, and having had conferences with them at the time, having known their expressions as borne out by their official utterances in Congress and printed in the Congressional Record, I am certain there was not one who, even by indirection, declared that this legislation covered the organizations of farmers, horticulturists, or wage earners.

The Supreme Court of the United States has declared in a recent decision that the labor organizations do come under the provisions of the Sherman anti-trust law. I shall neither here nor elsewhere undertake to criticise disrespectfully a decision rendered by that great and august judicial body of our country, but I think that we have the right, as men and women, to differ from an opinion rendered even by the Supreme Court of the United States.

The Supreme Court of the United States has sometimes reversed itself. Perhaps I need only to refer to the fact that when the income tax law, passed by Congress subsequent to the war with Spain, was before the court, the court decided by a vote of five to four that the law was constitutional, and then, six weeks after, the same court, composed of the same men, voted by five to four that the law was unconstitutional. There are other cases to which it is not necessary now to refer. If any man desires to

take exception to any differences of opinion with the Supreme Court, I advise that he read the dissenting opinions of the judges of the Supreme Court. No severer arraignment has ever been indulged in by any citizen of our country.

Many have fallen into the common error of speaking of workmen and workingwomen as labor, and then making the general statement that there should be equality of treatment of labor and capital, or capital and labor. The error is this. Capital is chiefly inanimate, things without life. Capital is the product of human effort. It is the product of the laborers, while the wage earner—labor—is part of the human living, breathing man and woman. You cannot differentiate, you cannot distinguish, between labor and the man and the woman who perform the labor, and it is economically and scientifically unsound for anyone to confuse the terms of capital and labor. Capital, I want to emphasize, is the product of the laborer. Labor is part of the laborer himself. You can transport capital from one end of the country to the other. You cannot transport labor without transporting the human being, and the association of men and women who labor is for the protection of individual liberty, of human life, of human rights, the ownership and disposition of one's self. How even legislators or courts can fall into the common error is explained only by the confusion of terminology upon the subject.

There are some who would, by law, curb or turn back the wheels of industry and prevent the development of the concept of human rights. Let me say, my friends, that law, as I understand the term, is made for the government of the people and for their protection and the promotion of their rights, their liberties and their happiness. A law which has not that for its purpose and effect, fails to perform its proper function and must be either amended or ended.

Industry and commerce, and the means of transportation of the products of labor and the transmission of information, and labor using it in its accepted sense, cannot be turned back to the condition of a half century or more ago. Association is the very essence of our modern existence and progress. We cannot conduct our business affairs upon the old lines of each employer conducting an individual business. The old-time partnerships are very scarce. Companies are merged into corporations, and, if

you please, into trusts. They are not going to dissolve. There is no law; there is no power in government to dissolve the associations of the toilers or of industry; you cannot go back to primitive industrial conditions, and the law will either be amended, or ended, or not enforced.

On the other hand, the organizations of the working people have done much to instil manhood and character in the workers; and have given them a consciousness of self-reliance and self-respect. The organization has given them a recognition of the principle that man cannot live for himself alone, that he is accountable to his brother and for his brother, that he must be willing to help bear his brother's burdens. In doing this the organizations of labor have done much to shed a ray of sunshine where gloom obtained in the home before, and have raised the American standard of life of the working people of our country. They have shortened the hours of labor, and have given the workingmen and women time and opportunity for the cultivation of the best that is in them. They have raised in the workingmen a conception of the higher ideals of American institutions, and have made of the working people a yeomanry of which we should all of us be proud, a yeomanry which shall stand as the bulwark of the constitution of our country; and of the Declaration of Independence, even against the antagonism or apathy of too many of our people, who regard the Declaration of Independence as a string of glittering generalities.

Only a few days ago we heard that a decision was rendered by the highest court of Massachusetts declaring that a strike for a certain reason was unlawful; that a strike against the open shop is unlawful. Now no man, who has given the subject of labor any consideration for any considerable time, is an advocate of strikes. I am sure I have yet to make the acquaintance of any man, active for any considerable period in the labor movement, who has not done his level best to discourage and prevent strikes, but there comes a time in many industries, when, if the workingmen would not strike or prepare to strike, the chains of slavery and demoralization would be riveted upon them for all time to come. We do not advocate strikes. We do not denounce them. We know that denunciation of strikes does not stop strikes. It is the strike or the fear of a strike that compels fair consideration by the unwilling, unfair employers.

Let me say a word in regard to this so-called "open shop," for there is a misunderstanding in regard to it. The union shop carries with it the responsibility of an agreement with employers to fulfil and carry out an agreement. In many industries there are extra-hazardous conditions to life and health and limb. The courts have decided in several states that neither workingmen, nor their families, can recover damage in the event of injury or death by reason of the negligence or ignorance of co-employees. I ask you, my friends, whether, if that be the state and the practice of the law, workingmen are not justified in insisting that their co-employees shall possess a certain amount of skill, a certain degree of sobriety, responsibility and respect? Are they not justified in setting up a standard by which they themselves can protect their health, their limbs and their lives? The highest court in the State of New York held that that principle was not only good in law, but justified by modern industrial conditions.

It is now said that the boycott has been outlawed by the action of the Supreme Court of the United States. I shall not attempt to discuss that at length, but may I call your attention to the fact that China is now making a very serious attempt to boycott Japan, and it is not uninteresting to know that the newspapers advise us that no less a personage than President Roosevelt, together with Secretary Root and other officers of the legislative branches of our federal government, have very seriously considered how we can boycott Venezuela and bring that little country to terms.

This labor question is rather a large one, inasmuch as it encompasses the field of human endeavor, but let me say this, that we are rather chagrined, to put it mildly, to find that our courts have no hesitancy in guaranteeing us the "right" to be maimed and killed without liability to the employer, and the "right" to be discharged for belonging to a union, and the "right" to work as many hours as employers please, and as employers impose. They give us academic rights and deny us rights which are necessary to our existence.

It is contended by the laboring men that the power of the courts, particularly the equity power and jurisdiction, and the discretionary government by the judiciary for well-defined purposes granted to the courts, and within specific limitations, by the constitution, has been so extended that it is invading the field of government by law and en-

dangerous individual liberty. I call your attention to this fact, that as government by equity—personal government—advances, republican government—government by law—recedes. It is against this tendency that the organizations of labor are now working. This is not generally understood. The results are not confined to the workers, and I speak of the workers in the generally accepted sense. Every successful contest which the working people of our country may make to secure human liberty, makes for the freedom of all the people now and hereafter.